

# QUEEN ANNE'S COUNTY ETHICS COMMISSION



Annual Report  
2011

## Queen Anne's County Ethics Commission



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### **Introduction**

The Maryland General Assembly enacted the State Ethics Law in 1979. The purpose of the law is to protect the public's confidence and trust in government by assuring the impartiality and independent judgment of State officials and employees. The Maryland Public Ethics Law requires local jurisdictions to enact provisions that are similar to the State Public Ethics Law. The Queen Anne's County Commissioners have complied with this requirement through the passage of and amendments to the Queen Anne's County Public Ethics Law.

The Queen Anne's County Ethics Commission administers the County's Public Ethics Law (Chapter 8 of the Queen Anne's County Code) by encouraging and enforcing compliance with its requirements. The Commission does so by various educational and informational outreach efforts, issuance of Advisory Opinions, consideration and resolution of Complaints, ensuring compliance with public financial disclosure requirements of various County officials and employees, and overseeing lobbyist registration and annual reporting requirements – all more specifically described below.

The Ethics Commission consists of five members and one alternate. Commission members serve a five-year term, and the terms are staggered. In this way it is possible to acquire new ideas and perspectives without sacrificing continuity and experience. At the start of the year in 2011 the Commission consisted of Kendall R. Ruffatto, who was elected chair for the calendar year by a vote of the Commission, and Robert C. Mueller, Reverend Nanese Hawthorne, Harold O. Wilson, Jody Schulz and Richard Smith as Alternate.

The Commission meets formally once a month, usually on the third Monday of each month, in the County Commissioners' Hearing Room in the Liberty Building in Centreville. Members of the public are welcome to attend the open sessions of each meeting. During the open portion of each meeting the Commission discusses the status of financial disclosure reports, ethics training, requests for advisory opinions and other issues, and hears comments from the public. If necessary, the Commission also meets in a closed or executive session to conduct confidential business generally including discussion of requests for advisory opinions, complaints and the progress of any investigations, and to consult counsel. Hearings on complaints of ethics violations are also handled during closed sessions. All final actions of the Commission are taken in the open portion of the meeting as required by Section 8-8D of the Queen Anne's County Code.

The Commission is staffed by a part time clerk, Tina Miles, and is advised by an attorney, Lynn Knight, who is appointed by the Commission with the approval of the County Commissioners.

## **Education and Outreach**

Due principally to the significant reduction in county employee staffing levels and hiring, the Ethics Commission offered only one presentation on Queen Anne's County's ethics ordinance to new county employees. On September 22, Commission member Robert Mueller made a 20-minute presentation to employees who had been hired since the last briefing. Mr. Mueller offered an overview of the purpose and concept of the ordinance in order to prepare the new employees to recognize potential ethics issues, both on the job and off in some circumstances – primarily related to potential conflicts of interest with their county employment.

## **Advisory Opinions**

In 2011 the Commission issued 8 Advisory Opinions either upon request, or initiated by the Commission itself as a result of issues raised during its regular meetings. Each opinion, redacted as necessary to preserve confidentiality, is announced during the public portion of meeting and becomes available to the public in written form after notification of the individual requesting the opinion. Unlike a Complaint, Advisory Opinions are as the name states, advisory in nature, and an opinion on an ethics matter rendered by the Commission. Advisory Opinions are based solely on the facts presented by the individual(s) or party requesting the opinion. The

Commission does not conduct any investigation of the facts (although it may, on occasion, ask for clarification), and the opinions are not binding. The following summary of the 8 Advisory Opinions from 2011 should be used as a guide only, and should not be utilized in place of the entire opinion.

#### 11-01

Considered if there would be a conflict of interest if a County Commissioner sold insurance products to the County and/or County employees. The Commission determined that there would be a conflict of interest as well as an appearance of a conflict of interest.

#### 11-02

Considered whether there was a conflict of interest where a board member on the Economic Development Commission was employed in affordable housing development. The Commission determined there was no conflict of interest but cautioned that at some point there may be a situation that would require recusal.

#### 11-03

Responded to a request for an advisory opinion in the case of a Planning Commission member and a potential conflict of interest when that member's attorney appears before the Planning Commission. The Commission determined that there would be an appearance of a conflict of interest should that member's attorney appear before the Planning Commission while the parties are in an on-going contractual relationship for representation.

#### 11-04

The Commission reconsidered Advisory Opinion 11-03 and determined that because the relationship between the Planning Commission member and his attorney and the pending litigation is a matter of public record and public knowledge there was an appearance of a conflict of interest when the member's attorney appears before the Planning Commission member on an unrelated matter.

#### 11-05

Determined that there would be a gift violation when an invitation for a factory trip was made directly to a County employee but if the invitation was made to the County government and an employee was designated to attend and represent the County then there would be no gift violation.

#### 11-06

The Commission determined there would be a conflict of interest and an appearance of a conflict of interest if the Chairperson of the Animal Control Board, who provided veterinary services in the County, participated in the discussion and decision of the Animal Control Board on a proposal by another veterinarian to provide veterinary services to the County in exchange for a lease of clinic space.

11-07

The Commission revisited Advisory Opinions 11-03 and 11-04 and determined that while the case in which the attorney represents the Planning Commission member is pending in the Circuit Court the appearance of a conflict of interest still exists if the attorney appears before the Planning Commission member. The appearance of a conflict would not continue after the representation ceases.

11-08

The Commission considered whether there would be a conflict of interest if a business owner, who leases commercial space from the County airport and buys large quantities of fuel from the airport, is hired as the manager of the airport. The Commission determined there would be a conflict of interest and an appearance of a conflict of interest for this individual to hold a position as employee of the airport while his business is a tenant and purchases fuel from the airport.

## **Financial Disclosure**

The Queen Anne's County Public Ethics Law, Chapter 8 of the Queen Anne's County Code, requires that elected County officials, certain employees, members of decision-making-authority boards or commissions, and various other individuals disclose their financial affairs annually, as well as upon employment/appointment and upon leaving office, as a tool to guard against conflicts of interest and to assure the public that Queen Anne's County business is being properly conducted.

In 2011, the Commission received and reviewed 189 financial disclosure statements. The deadline for filing the annual financial disclosure statement is January 31<sup>st</sup>.

## **Complaints**

The Opinion issued by the Commission in Complaint No. 10-01 was challenged by the Respondent who filed a Petition for Judicial Review in the Circuit Court for Queen Anne's County and subsequent memorandum alleging that the Commission erred in its findings and arguing that the decision should be reversed. By Memorandum and Order, entered August 12, 2011, the Court affirmed the Commission's decision to the extent that Respondent does have an actual and apparent conflict in violation of 8-11.A.(2) and it's order that Respondent shall cease and desist in any activity as a member of the Queen Anne's County Planning Commission that relates to the Queenstown Comprehensive Plan and reversed the Commission's decision as to the violations of 8-11.A.(1) and (7), finding no violations as the matter regarding extending water and sewer service along MD Route 8 was not yet before the Planning Commission and remanded to the Commission to issue an order in conformity with the Court's order. At its meeting on September 19, 2011, the Commission approved and issued a Revised Order in Complaint No.10-01 in conformity with the Court's Memorandum and Order.

Also related to the Opinion issued in Complaint 10-01, at its meeting in January 2011, the Commission issued a clarification of the meaning of the term “recusal” stating that “recusal” meant to disqualify oneself entirely, physically as well as conversationally, from any official involvement whatsoever in the matter under consideration.

The Commission initiated three complaints for failure to file a Financial Disclosure form by the deadline. Letters were sent to each of the three individuals advising of the initiation of the complaint but that action on the complaint was stayed until the next meeting to allow for submission of the form. The three forms were submitted prior to the meeting and the complaints were terminated.

The Commission heard one complaint in 2011. The summary that follows provides only a broad outline of the Commission’s conclusion and should not be used in place of the actual language of the Findings and Decision in that matter.

### **Complaint 11-01**

The Commission initiated this complaint on its own motion, after review of a Financial Disclosure form and further information provided by the Respondent, alleging a violation of Ethics Code section 8-11.A.(2)(b). Following a hearing on the matter, the Commission concluded, by a preponderance of the evidence, that Respondent, a member of the Animal Control Board, had provided emergency services to animals at the request of the Animal Control Center. While on its face this would appear to be a violation of the section alleged, the Commission construed section 8-11.B, Exceptions for Industry Representatives, to apply and found that Respondent was serving on the Board because of his expertise in emergency care of animals and for being a veterinarian in the County and was therefore exempt from the provisions of 8-11.A.(2)(b).

### **Lobbying Disclosure**

In 2011 the Commission registered 14 lobbyists and received 15 year-end disclosure reports. Continuing its efforts to make the public, and individuals who may be functioning as lobbyists, aware of the requirements under the County Ethics Law to register and to file a disclosure form, the Commission sent a letter to all County Boards and Commissions requesting their help in identifying lobbyists that appear before them so that the Commission can ensure they are aware of, and comply with, their registration and reporting responsibilities. The letter also enclosed the one-page summary of the registration and reporting requirements previously prepared by the Commission.

Lobbying disclosure under the Public Ethics Law has two aspects. First, lobbyists are required to file a registration statement within five days of first acting as a lobbyist, and yearly thereafter. Second, any lobbyist who expends funds or receives compensation to influence County government action, or who gives gifts, such as meals and beverages to influence County government action, is required to file a detailed year-end disclosure report of those activities. The registration statement and year-end disclosure report are public records available for inspection and copying.

## **Ethics Code Revision**

In 2010 the Maryland Legislature amended the state's ethics statute to require that all lesser jurisdiction's ethics laws include conflict of interest and financial disclosure provisions for elected officials that are at least equivalent to the requirements for State Officials in the state's statute and that the local ethics commission shall certify, before October 1 of each year, that the county or municipality is in compliance with that requirement.

To that end, the Commission spent a number of months working on revisions of the Ethics Code using the Model Ethics Law provided in the State statute as a guide. In August 2011, the Commission sent to the County Commissioners the proposed changes in the Ethics Law for their consideration. In September 2011, Commission counsel sent a letter to the State Ethics Commission enclosing the proposed revisions and advising that the matter was now in the hands of the County Commissioners. In October 2011, the Commission advised the County Commissioners of the need to amend the proposed revised code and thereafter the proposed revision was introduced before the County Commission where it is still under consideration.

## **Conclusion**

The Queen Anne's County Ethics Commission continued its efforts to educate the public and organizations regarding the registration requirements for lobbyists by reaching out to all County Boards and Commissions for assistance.

There were fewer requests for advisory opinions in 2011 which may be attributable to the concerted efforts over the last several years to educate County employees and officials regarding the Ethics Code as well as providing access to more information on the County website.

The Commission expended a great deal of effort on the revisions of the Ethics Code to bring the County in compliance with State law. When the revised Code is approved it is anticipated that there will be an increased need for advice and education. The Commission looks forward to its continued service to the County and protecting the public's confidence and trust in government by ensuring compliance with the Ethics Code.

Respectfully submitted,

Queen Anne's County Ethics Commission

Kendall Ruffatto, Esquire, Chairman

Robert C. Mueller, Esquire

Reverend Nanese A. Hawthorne

Harold O. Wilson

Jody Schulz

Richard Smith, Alternate member